

MINUTES
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD MEETING
City of St. George Council Chambers
175 East 200 North
St. George, Utah, Utah 84770
March 8, 2004
1:30 p.m.

UTAH WATER QUALITY BOARD MEMBERS PRESENT

Rob Adams	Mayor Joe Piccolo
David Echols	Jay Olsen
Bill Williams	Mayor Douglas Thompson
Ray Child	Ann Wechsler

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

Walt Baker, Faye Bell, Ed Macauley, Randy Taylor, Dan Hall, Peter Gessel, Gennaro Dicaldo, John Whitehead

OTHERS PRESENT

<u>Name</u>	<u>Organization Representing</u>
John Bennett	GOPB/Quality Growth Commission
Lawrence Parker	SW Utah Public Health Department
Rick Davis	West Point City
Boyd Davis	West Point City
Mayor John Petroff	West Point City
Mary Hazard	Weber-Morgan Health Department
Ray Baker	Weber-Morgan Health Department
Glenn Barrow	Hooper City
Richard Noyes	Hooper City
Chuck Hanor	Hooper City
Theo Cox	Hooper Cox
Tracy Allen	J.U.B. Engineers
Dennis Weston	Hooper City
Brad Beus	Hooper City
Tom Herbert	EA Miller
Paul Taylor	J.U.B. Engineers
Rod Coslett	SW Utah Public Health Department
Wayne Thomas	Department of Environmental Quality

Vice-Chairman Child called the Board meeting to order at 1:35 p.m. He welcomed those in attendance and excused Chairman Bill Williams who is not in attendance due to other commitments. He also excused Don Ostler, Executive Secretary, who was in Washington D.C. on state business. Walt Baker substituted for Mr. Ostler. Mr. Child invited the members of the audience to introduce themselves.

APPROVAL OF MINUTES OF THE JANUARY 16, 2004 MEETING

Motion: **It was moved by Dr. Kochenour and seconded by Mayor Piccolo to approve the minutes of the January 16, 2004 Board. The motion was unanimously approved.**

Rulemaking: Peter Gessel referred the Board to Tab 2 of the packet. On January 16, 2004 the Board authorized staff to initiate rulemaking on *R317-8, Administrative Rules for the Utah Pollutant Discharge Elimination System (UPDES)*, pertaining to Concentrated Animal Feeding Operations (CAFOs). A public comment period was open from February 1, 2004 through March 3, 2004. No comments on the proposed rule changes were received. The proposed changes mostly deal with incorporating the federal CAFO regulations into state rules. The effect on Utah's program resulting from these rule changes will be minimal as most of the changes were foreseen and incorporated into the current CAFO general permit.

Mr. Echols asked how the need to develop and implement a comprehensive nutrient management plan (CNMP) would be affected by the transfer of ownership of an existing CAFO. Mr. Gessel explained that while a change of ownership is not explicitly addressed in the rule, the permit is associated with a specific facility and not an individual owner. Ms. Nielson asked staff to consult with the Office of the Attorney General on the matter and report back to the Board at its next meeting.

Mr. Gessel recommended the Board adopt the proposed rule.

Motion: **It was moved by Ms. Wechsler and seconded by Dr. Kochenour to approve the identified changes to R317-8. The motion was unanimously approved.**

Rulemaking: John Whitehead referred the Board to Tab 3 of the packet. On January October 31, 2003 the Board authorized staff to initiate rulemaking on *R317-1, Definitions and General Requirements*, pertaining to: 1) incorporating completed and EPA-approved TMDLs into state administrative rules; 2) minor changes to the wastewater reuse rules to reconcile differences with the Division of Drinking Water's rules; and 3) the deletion of the requirements for communities to complete and submit Facility Management and Financial Plans (FMFPs). The public comment period on this rule change closed on December 31, 2003 and no comments were received.

Mr. Whitehead recommended that the Board adopt the proposed rule.

Motion: **It was moved by Mr. Echols and seconded by Mayor Thompson to adopt the identified changes to R317-1. The motion was unanimously approved.**

Rulemaking: Walt Baker referred the Board to Tab 4 of the packet. Mr. Baker indicated that changes to *R317-10, Administrative Rules for Certification of Wastewater Works Operators*, have become necessary to clarify aspects of the rule as well as be consistent with changes in the national Associated Boards of Certification (ABC) program. Changes recommended include: 1) correction of several grammatical and typographical errors; 2) clarification that certain non-operational individuals affiliated with a POTW do not need to be certified; 3) the requirement to notify the Executive Secretary in cases where the facility is without the services of its Chief Operator for reasons other than termination; 4) changes associated with the classification of a facility; 5) clarification of certificate renewal requirements; and 6) clarification of the requirements to qualify for a Grandfather Certificate. The Board-appointed Operator Certification Council has reviewed the proposed changes and is in agreement with them.

Mr. Baker requested the Board authorize staff to initiate rulemaking and receive public comment on the proposed changes.

Motion: **It was moved by Mr. Adams and seconded by Dave Echols to authorize staff to proceed to rulemaking for changes to R317-10. The motion was unanimously approved.**

Rulemaking: Walt Baker referred the Board to Tab 5 of the packet. On October 31, 2003 the Board authorized staff to initiate rulemaking on the proposed new rule, *R317-401, Administrative Rules for Graywater Systems*. The new rule provides for homeowners to utilize non-toilet wastewater for subsurface landscape irrigation. Two public meetings were held to solicit comment on the rule. As a result of those comments, modifications to the proposed rule were made and the public comment period was extended to May 17, 2004. Staff anticipates no substantive comments to be raised during the comment period.

Mr. Baker requested the Board authorize staff to open the proposed rule for public comment.

Motion: **It was moved by Mr. Adams and seconded by Ms. Wechsler to authorize staff to proceed to rulemaking for changes to R317-401. The motion was unanimously approved.**

Rulemaking: Dan Hall referred the Board to Tab 6 of the packet regarding proposed rulemaking on *R317-6, Administrative Rules for Ground Water Quality Protection*. Mr. Hall indicated that the Division of Occupational and Professional Licensing has made rule changes regarding the licensure of professional geologists. DEQ has embraced these licensure requirements and will require that certain submittals to the ground water program bear the seal of a professional geologist or professional engineer. These submittals include: 1) ground water permit applications; 2) ground water permit renewals; 3) corrective action plans and contaminant investigations; and 4) petitions for aquifer classifications or reclassifications. This rule change is expected to have minimal impact on regulated communities as consultants that usually make these submittals have professional geologists or professional engineers on staff.

Mr. Hall requested the Board authorize staff to initiate rulemaking and receive public comment on the proposed changes.

Motion: **It was moved by Mr. Echols and seconded by Mayor Piccolo to authorize staff to proceed to rulemaking for changes to R317-6. The motion was unanimously approved.**

LOAN PROGRAM

Financial Assistance Status Report – Mr. Macauley updated the Board on the “Summary of Assistance Program Funds” as outlined on page 7.1.

West Point City Request for Funding: Gennaro Dicataldo introduced Rick Davis, City Manager of West Point City; Boyd Davis, West Point City engineer; and John Petroff, Mayor of West Point City. West Point City is requesting financial assistance in the amount of \$490,000 to construct improvements to its storm water system. The project consists of the construction of 0.87 miles of 34-inch and 36-inch pipeline and appurtenances that will provide oil-water separation and debris separation, consistent with the City’s storm water management plan.

A key issue in the ability of the Board to fund storm water projects is whether or not a significant portion of the project is anticipated to improve water quality. Mr. Davis indicated that West Point City is at the far western end of an area that contributes storm water run-off from 250,000 people. The proposed project is to intercept existing storm water that is contributing pollutants to the Great Salt Lake and its wetlands and convey it to a county storm water channel where sediments can be settled out and disposed of.

Mayor Piccolo asked if the City's storm water management plan took into account federal storm water requirements that may impact the community when the City reaches a population of 10,000. Mr. Davis responded that the plan is dynamic and will be revisited annually and modified if necessary.

Ms. Nielson asked staff to report back to the Board, prior to the Board taking final action on this request, as to whether or not there are anticipated changes to the quantity, quality, or point of diversion of the storm water discharge that may impact the Great Salt Lake.

Mr. Baker outlined some of the parameters established by administrative rule and Board policy on the terms of storm water loans and the amount of funding that annually the Board has elected to commit to storm water projects.

No action was necessary by the Board as this was a first hearing on the project.

Hooper City Request for Funding: Gennaro Dicataldo outlined Hooper City's proposed project and exhibited slides that portrayed the nature and extent of the wastewater disposal problems in the City. The project is ranked #1 on the FY2004 Wastewater Project Priority List and has been designated a health hazard because of onsite system failures. Approximately \$5.0 million in grant and \$10.0 million in loan are being requested by Hooper City for the project.

Mr. Dicataldo introduced Mayor Noyes who presented some of the history of the project and stated the City Council feels the project is necessary to address public health concerns. He indicated that onsite systems are no longer an option for his growing city. He stated that public meetings have been held and citizens appear to be overwhelmingly in favor of a public sewer. Mary Hazard, of the Weber-Morgan Health Department, spoke of the onsite system density study that the county sponsored and about the impacts of onsite systems on the shallow ground water aquifer.

Paul Taylor exhibited a map showing that there are over 200 locations in Hooper City with failed or compromised onsite systems. He indicated that the City is approaching the Board for funding Phase I of the sewer project that will serve 818 homes, or approximately 75% of the homes in the City. The cost of the remaining project phases will be borne by future growth.

Mr. Adams questioned why permits for onsite systems were issued in West Weber County considering all the problems that have resulted. Ms. Hazard responded that land drains that provided for lowering of the water table so that onsite system could properly function are no longer lowering the water table, which has resulted in onsite system failures.

Ms. Nielson was concerned that the 818 homes that would be taken off onsite systems would simply be replaced by a like number of new onsite systems located down-gradient, resulting in no net reduction of onsite systems in the area. She feels that onsite systems that are removed should be retired and not replaced. Mr. Taylor responded that Hooper City is surrounded on three sides by the Great Salt Lake. Although outside of Hooper City there are no additional down-gradient on-site systems that could be constructed, there remain areas within the City that could still accommodate on-site systems should the county health department approve them.

Ms. Wechsler stated she felt the real problem was not failed onsite systems but rather a failure of land use planning.

Mr. Kochenour registered concerns that \$75 million of sewer construction remains in order to service the remainder of the community and that the City will return to the Board in the future for additional funding assistance. Mr. Taylor indicated that for all additional project phases it is anticipated that development will pay its own way without funding assistance from the Board.

Mayor Thompson encouraged the City to review its general plan and look at better managing its growth. Mr. Taylor indicated that since the City incorporated it must now provide affordable housing that requires smaller lots, higher densities and hence more people. He stated the only practical way to meet the current wastewater disposal needs is through a public sewer.

Mr. Child cautioned that sufficient O&M costs must be identified or else increased costs to the users will result.

No action was necessary by the Board as this was a first hearing on the project.

Other Business:

Quality Growth Community Discussion: Ed Macauley presented staff recommendations on how the Board may encourage quality growth and better planning by communities. These were: 1) provide 20 points on the numeric Project Priority System to communities that are designated Quality Growth Communities by the Governor's Office of Planning and Budget (GOPB); 2) communities designated Quality Growth Communities, or which can achieve this designation within a prescribed time, could secure grant funds (perhaps limited to \$10,000 to \$20,000 per community and no more than \$200,000 total per year for all communities) to complete the infrastructure component of a Quality Growth Plan; 3) staff will make a concerted effort to have communities complete the Municipal Wastewater Planning Program questionnaire; 4) staff will contract for the development of a model sewer management planning guide to assist communities meet their long-term wastewater disposal needs; and 5) staff will develop an outreach effort to educate communities on the benefits of prudent planning for wastewater infrastructure.

Mr. Bennett brought to the Board's attention that Governor Walker has signed an Executive Order directing all state agencies to cooperate with the Quality Growth Community program.

On future loan projects, Dr. Kochenour would like staff to update the Board on the impact to the loan fund to provide interest rate "breaks" for communities that achieve Quality Growth Community status.

Motion: **It was moved by Mr. Adams and seconded by Dr. Kochenour to adopt the five measures recommended by staff to encourage Quality Growth Communities. The motion was unanimously approved.**

Legislative Update: Mr. Baker stated that the pre-legislative discussions to divert \$14.5 million of sales tax funds for water projects to the state general fund did not materialize.

Senate Bill 151, regarding wastewater reuse, failed. The bill would have required the State Engineer to grant approval for every type of wastewater reuse, including landscape watering at the site of a treatment plant. A separate bill was passed which remanded this issue to a study committee. Staff will report back on progress by that legislative committee.

Environmental Subdivision Work Group: Walt Baker summarized an initiative by DEQ and the twelve local health departments to address environmental problems associated with growth as they pertain to old and new subdivisions. Representatives of six local health departments; a county engineer; private and governmental planners; the League of Cities and Towns; the Utah Association of Counties; the Association of Special Service Districts; the Divisions of Drinking Water and Water Quality; GOPB; and DEQ are participating in the work group. The work group will study the legal aspects of the problem, develop model ordinances and outline a plan to educate decision-makers in an effort to address water and wastewater problems in subdivisions.

Onsite System management Options: Richard Jex, of the Wasatch City-County Health Department, was not in attendance but previously asked that this agenda item be deferred until May when the Board again meets in Salt Lake City.

Update on AFO/CAFO Strategy: Peter Gessel updated the Board on the AFO/CAFO strategy. Assessments have been completed on 2,893 operations; 2,054 have been designated Animal Feeding Operations (AFOs) with no water pollution problems; 56 have been designated Concentrated Animal Feeding Operations (CAFOs); and 380 have been identified as "Potential CAFOs." Of the 42 facilities that made no progress within the first two years of the program, 41 have agreed to correct their water quality problems.

Discussion of Ground Water Conditions Affecting Loan Projects: Ed Macauley reported back to the Board on its question of whether the ground water problems encountered in the Nibley project could have been foreseen had beforehand input been received from the Utah Geologic Survey. Mr. Macauley indicated that additional studies could have been undertaken to identify general areas where ground water inflow might occur, but they would have been expensive to perform. However, there was nothing that led the contractor, engineer or DWQ to suspect that highly transmissive soils were present in Nibley. If similar high ground water conditions present themselves in a future project, staff will highly consider involving a hydro-geologist during project planning to evaluate the conditions and alternatives.

Mr. Macauley also stated that due to the often-long time period between the completion of project planning and bid opening, planning-level costs estimates frequently are not representative of actual construction costs. In many instances this has resulted in communities returning to the Board to secure additional funding. Every effort will be made to accurately estimate project costs during the planning phase with the understanding that the applicant must return to the Board should project costs change significantly.

NEXT MEETING

The next Water Quality Board meeting will be held on April 21, 2004 at 9:30 a.m. at St. George City's Dixie Center in conjunction with the annual meeting of the Water Environment Association of Utah.

William Williams, Chairman

Located in:
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